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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,488	01/21/2004	Hiroyuki Suzuki	KAS-197	9791

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MATTINGLY, STANGER & MALUR, P.C.
1800 Diagonal Road, Suite 370
Alexandria, VA 22314

EXAMINER

WRIGHT, PATRICIA KATHRYN

ART UNIT	PAPER NUMBER
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1797

MAIL DATE	DELIVERY MODE
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07/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/760,488	Applicant(s) SUZUKI ET AL.	
	Examiner P. Kathryn Wright	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 April 2009 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Claims

1. This action is in response to papers filed April 29, 2009 in which claims 1-22 were canceled. The amendments have been thoroughly reviewed and entered. Any objection/rejection not repeated herein has been withdrawn by the Examiner.

Claims 23-27 are under prosecution.

Information Disclosure Statement

2. The information disclosure statement filed July 11, 2008 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information submitted that is not in the English language. Applicant has included a copy of a non-patent literature document which is not listed on the IDS. This document is not in the English language. The Examiner again requests a full translation of this document for consideration.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the additional conveyer line in claim 26 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

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prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 26 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 26 recites the analyzer system further comprising an additional conveyer line for conveying is not supported in the original specification or shown in the Figures.

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Nor has Applicant cited where in the original disclosure this new limitation finds support.

This is considered new matter.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 23-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 23, last line recites "said conveyer units". This lacks antecedent basis.

Claim 23 recites at least two conveyer lines with first and second buffers that received sample racks from the conveyer lines. Claim 26 recites an additional conveyer line for conveying the sample racks to one of the sample buffers and for conveying the sample racks to the sample collection unit from one of the sample buffers, the conveyer line moving back and forth. It is not clear how at least two conveyer lines of claim 23 differ from the conveyer line of claim 26.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 23-27, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi et al., (US Patent No. 6,290,907), hereinafter "Takahashi".

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Takahashi teaches an automatic analyzer comprising:

an analytical modules in analyzers 3, 5-9 for analyzing living body samples;

a plurality independently driven conveyer units 1b-1i for conveying sample racks 10, 19 with samples to be analyzed to and from the analytical modules;

a plurality of buffer units 2a, 2b and 13, 14, wherein buffer unit 13, 14 has at least one independent line between the priority sample mounting area 13 and inlet buffer 14 at which the racks are shown extended parallel to conveyor 1, (see for example Fig. 1);

a sample loading unit 11a, 11b for supplying the samples;

a sample collection unit 60 for collecting the samples;

It is expected that Takahashi includes a line switching unit in buffer 13, 14 for moving the sample rack into the buffer area from the conveyer unit 1 and to the independent line between buffer portions 13-14.

Regarding claims 24-25, Takahashi teaches the conveyer unit 1a-1i each include a main transportation lane and a feedback transportation lane, thus, each conveyor line 1a-1i moves back and forth, see for example col. 4, line 18 et seq.

With respect to claim 26, as best understood, Takahashi teaches a conveyer line 61 for conveying the sample racks to the sample buffer 13, 14 and for conveying the sample racks to the sample collection unit from the sample buffer, the conveyer line 61 moves back and forth.

As to claim 27, Takahashi also teaches an urgent sample loading unit 12 for supplying urgent samples to the sample buffer, and sample collection unit 60 for collecting samples from the sample buffer (see col. 8, line 37 et seq.) Takahashi

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teaches a controller 17 that controls the analytical modules to complete sampling of general samples currently being subjected to sampling, and controlling the conveyer unit to convey general samples still to be subjected to sampling to the first buffer when an urgent sample is loaded into the urgent sample loading unit. The controller also acts to convey the urgent sample to the analytical module and to convey general samples in the first buffer to the analytical module after the urgent sample has been analyzed (see for example col. 5, line 40-col. 6, line 23 and col. 8, et seq.)

Response to Arguments

10. Applicant's arguments with respect to claims 23-27 have been considered but are moot in view of the new ground(s) of rejection as set forth above.

Conclusion

11. No claims allowed.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to P. Kathryn Wright whose telephone number is (571)272-2374. The examiner can normally be reached on Monday thru Thursday, 9 AM to 6 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. Kathryn Wright/
Examiner, Art Unit 1797